

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

NETCHOICE, LLC d/b/a	*	
NetChoice, a 501(c)(6)	*	
District of Columbia	*	
organization, COMPUTER &	*	
COMMUNICATIONS INDUSTRY	*	
ASSOCIATION d/b/a CCIA, a	*	
501(c)(6) non-stock	*	CIVIL ACTION
Virginia Corporation,	*	NO. 1:21-cv-00840-RP
Plaintiffs,	*	
	*	
v.	*	
	*	
KEN PAXTON, in his	*	
official capacity as	*	
Attorney General of Texas,	*	
Defendant.	*	

VIDEOTAPED ORAL DEPOSITION OF

CARLOS GUTIERREZ,

DEPUTY DIRECTOR AND GENERAL COUNSEL OF

LGBT TECHNOLOGY INSTITUTE

Friday, November 12, 2021

(Remotely Reported)

VIDEOTAPED ORAL DEPOSITION OF CARLOS

GUTIERREZ, produced as a witness at the instance of the Defendant, and duly sworn, was taken in the above-styled and numbered cause on Friday, November 12, 2021, from 8:02 a.m. to 9:46 a.m., before Debbie D. Cunningham, CSR, in and for the State of Texas, remotely reported via Machine Shorthand, pursuant to the Federal Rules of Civil Procedure.

<p>1 APPEARANCES</p> <p>2</p> <p>3 FOR PLAINTIFFS:</p> <p>4 LEHOTSKY KELLER</p> <p>919 Congress Avenue, Suite 1100</p> <p>5 Austin, Texas 78701</p> <p>6 By: Todd Disher, Esq.</p> <p>todd@lehotskykeller.com</p> <p>7 AND</p> <p>Jeremy Maltz, Esq.</p> <p>8 jeremy@lehotskykeller.com</p> <p>9</p> <p>10 FOR DEFENDANT:</p> <p>11 OFFICE OF THE ATTORNEY GENERAL OF TEXAS</p> <p>General Litigation Division</p> <p>12 P.O. Box 12548</p> <p>Austin, Texas 78711-2548</p> <p>13 (T) 512.463.2120</p> <p>By: Benjamin Walton, Esq.</p> <p>14 benjamin.walton@oag.texas.gov</p> <p>AND</p> <p>15 Courtney Corbello, Esq.</p> <p>courtney.corbello@oag.texas.gov</p> <p>16</p> <p>17</p> <p>18 VIDEOGRAPHER:</p> <p>19 Brian Christopher</p> <p>20</p> <p>21</p> <p>22</p> <p>--ooOoo--</p> <p>23</p> <p>24</p> <p>25</p>	<p>2</p> <p>4</p> <p>1 EXHIBIT INDEX</p> <p>2 Exhibit Number Description Page</p> <p>3 Exhibit 1 Gutierrez Declaration 15</p> <p>4</p> <p>5</p> <p>6 --ooOoo--</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>3</p> <p>1 INDEX</p> <p>2 APPEARANCES 2</p> <p>3</p> <p>4 EXAMINATION OF CARLOS GUTIERREZ:</p> <p>5 BY MR. WALTON 6</p> <p>6</p> <p>7</p> <p>8 REPORTER'S CERTIFICATION 66</p> <p>9</p> <p>10 --ooOoo--</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>5</p> <p>1 (Friday, November 12, 2021, 8:02 a.m.)</p> <p>2 P R O C E E D I N G S</p> <p>3 THE REPORTER: Today's date is Friday,</p> <p>4 November 12, 2021. The time is 8:02 a.m. Central</p> <p>5 Standard Time. This is the videotaped oral deposition</p> <p>6 of Carlos Gutierrez, Deputy Director and General Counsel</p> <p>7 of LGBT Technology Institute, and it is being conducted</p> <p>8 remotely. The witness is located in Silver Spring,</p> <p>9 Maryland.</p> <p>10 My name is Debbie Cunningham, CSR</p> <p>11 Number 2065. I am administering the oath and reporting</p> <p>12 the deposition remotely by stenographic means from</p> <p>13 Austin, Texas.</p> <p>14 Would Counsel please state their</p> <p>15 appearances and locations for the record, beginning with</p> <p>16 Plaintiffs' Counsel?</p> <p>17 MR. DISHER: Yes. This is Todd Disher.</p> <p>18 I am in Washington, DC; and with me today I have Jeremy</p> <p>19 Maltz.</p> <p>20 MR. MALTZ: And I'm in --</p> <p>21 (Simultaneous speaker.)</p> <p>22 MR. MALTZ: -- Virginia.</p> <p>23 THE REPORTER: I'm sorry. I missed the</p> <p>24 city.</p> <p>25 MR. MALTZ: Falls Church.</p>

<p>6</p> <p>1 THE REPORTER: Thank you.</p> <p>2 MR. MALTZ: Thank you.</p> <p>3 MR. WALTON: This is Ben Walton, Counsel</p> <p>4 for Defendant. I'm in Austin, Texas. With me is also</p> <p>5 Courtney Corbello. She is, likewise, in Austin as well.</p> <p>6 CARLOS GUTIERREZ,</p> <p>7 having been duly sworn, testified as follows:</p> <p>8 EXAMINATION</p> <p>9 BY MR. WALTON:</p> <p>10 Q. Mr. Gutierrez, can you hear me all right?</p> <p>11 A. I can.</p> <p>12 Q. Okay. Very good. Well, my name is Ben</p> <p>13 Walton. I'm from the Attorney General's Office, and</p> <p>14 I'll be taking your deposition today which means that</p> <p>15 I'll be asking you questions and then you'll be</p> <p>16 providing answers. So I want to make sure that we can</p> <p>17 hear each other okay.</p> <p>18 If I ever -- well, if I ever speak over</p> <p>19 you, then please call me on that because I don't want to</p> <p>20 do that. So if I ever interrupt you, please just -- you</p> <p>21 know, you can give me a visual notice or something; and</p> <p>22 I'll allow you to finish yours answers before I jump</p> <p>23 back in with another question. Okay?</p> <p>24 A. Sounds good.</p> <p>25 Q. Since we are on a court record today, I just</p>	<p>8</p> <p>1 question. All right?</p> <p>2 A. Sounds good.</p> <p>3 Q. If I ever ask you a question and you're not</p> <p>4 sure what I'm asking about, I would much rather you go</p> <p>5 ahead and ask me for clarification than us trying to</p> <p>6 talk past each other. Okay? So if you're not clear on</p> <p>7 what I'm talking about, feel free to ask me to clarify</p> <p>8 because I want to make sure we're understanding each</p> <p>9 other. Okay?</p> <p>10 A. Okay.</p> <p>11 Q. And I know this is not going to be a long</p> <p>12 deposition today; but if at any point you need to take a</p> <p>13 break, we can certainly do that. Just at the end of any</p> <p>14 of your answers, before I jump back in with another</p> <p>15 question, just say, "Hey, I'd like to take a break," and</p> <p>16 we'll absolutely do that. Okay?</p> <p>17 A. Okay.</p> <p>18 Q. Have you ever given a deposition before,</p> <p>19 Mr. Gutierrez?</p> <p>20 A. I have not.</p> <p>21 Q. Okay. All right. So this is your first one?</p> <p>22 A. First one.</p> <p>23 Q. What did you do to prepare for your deposition</p> <p>24 today?</p> <p>25 A. Obviously, I spoke to Mr. Disher. I reviewed</p>
<p>7</p> <p>1 want to go over a couple of ground rules. Your attorney</p> <p>2 probably went over this with you, but I just want to</p> <p>3 make sure we're on the same page as far as the</p> <p>4 expectations for how this is going to work. You do</p> <p>5 realize that, having just been sworn by the court</p> <p>6 reporter, that your testimony today is under oath, just</p> <p>7 like it would be if you were in a courtroom in front of</p> <p>8 a judge and jury, although, we're not in a courtroom</p> <p>9 today. Do you understand that?</p> <p>10 A. I do.</p> <p>11 Q. Okay. And because the court reporter is</p> <p>12 trying to record everything that we're saying, it is</p> <p>13 important that we speak verbally. So if I ask you a</p> <p>14 question, instead of shaking or nodding your head or</p> <p>15 saying "uh-huh" or "huh-uh," it will be important just</p> <p>16 for you to go ahead and say "yes" or "no" and then use</p> <p>17 words to explain your answers so that the written record</p> <p>18 is clear on that. Does that sound fair to you?</p> <p>19 A. It does.</p> <p>20 Q. Okay. And I already talked about the need to</p> <p>21 not talk at the same time. So if you'll allow me to</p> <p>22 finish asking you a question before you start answering,</p> <p>23 even if you can see where I'm going with my question,</p> <p>24 and then I'll try to let you make sure you're finished</p> <p>25 with your answers before I jump back in with another</p>	<p>9</p> <p>1 my declaration. I reviewed the Texas State law. That's</p> <p>2 pretty much it.</p> <p>3 Q. Okay. And just to be clear for the record,</p> <p>4 when you say Texas State law, are you talking about</p> <p>5 HB 20?</p> <p>6 A. Yes, I reviewed the HB 20 law.</p> <p>7 Q. Okay. Was there any other Texas law that you</p> <p>8 reviewed other than the text of HB 20?</p> <p>9 A. No.</p> <p>10 Q. Okay. Would you give me a brief description</p> <p>11 of how it was that you came to work for LGBT Tech?</p> <p>12 A. Well, actually, my partner and my best friend</p> <p>13 started the organization while I was a general counsel</p> <p>14 at Discovery Channel. When I left Discovery Channel, I</p> <p>15 had had a past of doing telecommunications work before I</p> <p>16 went to Discovery. So my first two years was a telecom</p> <p>17 law firm; and because that the work that we were doing</p> <p>18 at LGBT Tech had now become more policy related, they</p> <p>19 asked me to come work after I left Discovery. So I've</p> <p>20 been with LGBT Tech kind of tangentially since it was</p> <p>21 formed; but officially about three years after it was</p> <p>22 formed, I joined as their head of policy.</p> <p>23 Q. And what year was that when you joined as</p> <p>24 their head of policy?</p> <p>25 A. It was probably about six years ago, so I'm</p>

<p>10</p> <p>1 going to say around 2015.</p> <p>2 Q. And how would you describe the duties of your</p> <p>3 current position with LGBT Tech?</p> <p>4 A. I think I'm kind of the person that reviews</p> <p>5 the policy side of the business. The business has two</p> <p>6 sides, one's a nonprofit side that distributes</p> <p>7 technology to underprivileged LGBT youth. The other</p> <p>8 side, we engage with policymakers, agencies, and</p> <p>9 corporations interested in dealing with LGBT and</p> <p>10 technology.</p> <p>11 So I kind of oversee the area of that,</p> <p>12 the policy side, and kind of determine what our</p> <p>13 positions will be when it comes to different issues like</p> <p>14 230 encryption, telehealth, digital divide. Those are</p> <p>15 the kinds of issues that we've been involved in.</p> <p>16 Q. Gotcha. So you said there were two sides of</p> <p>17 LGBT Tech, and I heard you say that one side was</p> <p>18 nonprofit. Is the other side for profit, or is it all</p> <p>19 nonprofit?</p> <p>20 A. It's all nonprofit.</p> <p>21 Q. Okay.</p> <p>22 A. I meant the one side is policy. One is</p> <p>23 purely, like, giving out tech equipment to LGBT centers.</p> <p>24 Q. Gotcha. So in determining the pol- -- what</p> <p>25 the policy of LGBT Tech is going to be on any given</p>	<p>12</p> <p>1 kind of our policies as well. So the PowerOn Centers</p> <p>2 are what provide us kind of the feedback from the LGBT</p> <p>3 community on what issues are important and interesting.</p> <p>4 CenterLink, which is the organization</p> <p>5 that kind of oversees all of the LGBT centers -- it's</p> <p>6 kind of a trade group -- is another organization we work</p> <p>7 with to determine policy as well.</p> <p>8 Q. Within LGBT Tech are there other directors,</p> <p>9 officers, board members, et cetera, that you have to</p> <p>10 coordinate with to determine "this is our policy"; or is</p> <p>11 it you and the President working with all of these other</p> <p>12 entities that you described for me earlier?</p> <p>13 A. So LGBT Tech has only three full-time</p> <p>14 employees. We're a very small organization. So it's</p> <p>15 me, Christopher Wood, the Executive Director, and Ellie,</p> <p>16 who runs the PowerOn Program. So the conversations are</p> <p>17 between me and Christopher Wood, who are the only two</p> <p>18 people involved in the policy side.</p> <p>19 Q. Okay. Thank you. That helps to round out the</p> <p>20 picture.</p> <p>21 Tell me a little bit -- I want to spend</p> <p>22 most of our time today walking through your declaration</p> <p>23 and asking you some questions about it so we make sure</p> <p>24 we understand; but before we get to the nitty-gritty of</p> <p>25 the declaration itself, I just want to ask: How did you</p>
<p>11</p> <p>1 issue, who do you discuss that with?</p> <p>2 A. Well, the Executive Director, Christopher</p> <p>3 Wood, and I would discuss that; but, you know, I have a</p> <p>4 lot of relationships with other organizations, like,</p> <p>5 CDT, The Center for Democracy and Technology, the Future</p> <p>6 of Privacy Forum, ITIF. So it's kind of the civil</p> <p>7 rights organization groups where we discuss kind of</p> <p>8 what's coming up, what's important, and what positions</p> <p>9 we take. So a lot of times I'll be asked, "Are you</p> <p>10 interested in joining in this position? What's your</p> <p>11 take on it?" And at that point we'll determine what our</p> <p>12 involvement will be.</p> <p>13 Q. Does LGBT Tech have -- does it have members</p> <p>14 that are other organizations?</p> <p>15 A. We have PowerOn Centers that are</p> <p>16 organizations. So we have 49 PowerOn Centers that we</p> <p>17 work with, and we partner with a lot of other</p> <p>18 organizations.</p> <p>19 Q. Okay. So --</p> <p>20 (Simultaneous speakers.)</p> <p>21 A. -- chapters across the country.</p> <p>22 Q. Gotcha. And when you say "a PowerOn Center,"</p> <p>23 what do you mean by that?</p> <p>24 A. PowerOn Center is the affiliated centers that</p> <p>25 we work with to provide technology and get feedback on</p>	<p>13</p> <p>1 come to write this declaration?</p> <p>2 A. I have been working on Section 230 issues for</p> <p>3 a while now, mainly at the federal level. We did some</p> <p>4 work around the EARN IT Act that was introduced by</p> <p>5 Lindsey Graham that affected Section 230, an encryption.</p> <p>6 As a result of panels that I've done on</p> <p>7 Section 230 and work that I've done, we started chatting</p> <p>8 with NetChoice probably -- gosh, we started talking to</p> <p>9 them about 2019, maybe. They were interested, kind of,</p> <p>10 in our position on Section 230; and they reached out to</p> <p>11 us back in April to support the work.</p> <p>12 And as part of the conversations that</p> <p>13 we've been having, they asked if we'd be interested in,</p> <p>14 you know, kind of laying out our views in a declaration</p> <p>15 in this case; and we agreed.</p> <p>16 Q. Okay. Is there a -- and I don't want to get</p> <p>17 too technical -- but is there a similar law that's been</p> <p>18 passed by Florida to Texas HB 20?</p> <p>19 MR. DISHER: Objection, form.</p> <p>20 Go ahead and answer.</p> <p>21 A. I believe there is a similar law in Florida</p> <p>22 that is moving to the courts at the same time.</p> <p>23 Q (BY MR. WALTON) And did you sign a</p> <p>24 declaration for use in the lawsuit over the Florida law?</p> <p>25 A. I didn't.</p>

<p style="text-align: right;">14</p> <p>1 Q. You did not?</p> <p>2 A. I did not.</p> <p>3 Q. Okay. Why not?</p> <p>4 A. Timing. I mean, we're a small organization;</p> <p>5 and, you know, I don't recall -- I don't recall</p> <p>6 specifically being asked to sign onto that. So it's</p> <p>7 just, you know, we do things when we are able to; and</p> <p>8 when we're busy with other things -- like I said, we're</p> <p>9 a small organization. So we take on things when we have</p> <p>10 capacity; and if we don't have capacity, we just don't</p> <p>11 weigh in.</p> <p>12 Q. Sure. Did LGBT Tech have a policy or have a</p> <p>13 position on Florida's law?</p> <p>14 A. No.</p> <p>15 Q. Okay. Just on Texas law?</p> <p>16 A. Just in the declaration, yes.</p> <p>17 Q. Okay. Did anyone else in your organization,</p> <p>18 in LGBT Tech, help you with this declaration?</p> <p>19 A. No.</p> <p>20 MR. DISHER: Objection, form.</p> <p>21 Go ahead.</p> <p>22 A. No. I showed it to Chris Wood before I sent</p> <p>23 it in, as the Executive Director; but the changes and</p> <p>24 kind of the form of it were mine.</p> <p>25 Q. (BY MR. WALTON) Okay. Let me go ahead and</p>	<p style="text-align: right;">16</p> <p>1 to make sure that we are looking at the same document.</p> <p>2 A. Okay.</p> <p>3 Q. Let's see. Okay. Are you able to see the</p> <p>4 PDF that's on my screen I'm sharing right now,</p> <p>5 Mr. Gutierrez?</p> <p>6 A. I am.</p> <p>7 Q. And does this appear to be the declaration</p> <p>8 that you signed for use in this NetChoice lawsuit?</p> <p>9 A. It does.</p> <p>10 Q. Okay. I'm going to go ahead and stop sharing</p> <p>11 my screen now that we've established we are all working</p> <p>12 from the same PDF document; and, Mr. Gutierrez, are you</p> <p>13 still able to see your copy of that document on your</p> <p>14 screen?</p> <p>15 A. Yeah.</p> <p>16 Q. Okay. Well, then, let's kind of go through</p> <p>17 this a little bit because, like I said, I want to spend</p> <p>18 the bulk of our time walking through your declaration</p> <p>19 today and just asking you some questions so that we make</p> <p>20 sure we understand what this is about what you're asking</p> <p>21 about and what the opinions that you hold are.</p> <p>22 A. Okay.</p> <p>23 Q. So, first, I think we've covered Paragraph 1</p> <p>24 okay. It describes your position and what LGBT Tech is.</p> <p>25 I want to jump through -- jump down to Paragraph 3.</p>
<p style="text-align: right;">15</p> <p>1 look at the declaration itself. I believe -- it's been</p> <p>2 a while since I've done this on Zoom, but I believe the</p> <p>3 easiest way is for me to send a PDF copy of your</p> <p>4 declaration to you through the chat function and that</p> <p>5 way the court reporter has it; everybody can download</p> <p>6 the document and make sure we're looking at the same</p> <p>7 thing. And then I can share my screen as needed; or we</p> <p>8 can just walk through the document, knowing what</p> <p>9 everyone is looking at.</p> <p>10 MR. WALTON: Is that acceptable with you,</p> <p>11 Mr. Disher?</p> <p>12 MR. DISHER: Yes.</p> <p>13 MR. WALTON: Okay.</p> <p>14 Q. (BY MR. WALTON) Okay. Mr. Gutierrez, I've</p> <p>15 sent to you through the chat function a PDF that's</p> <p>16 labeled 12-5 Gutierrez Declaration. Do you see that</p> <p>17 document, sir?</p> <p>18 A. I do.</p> <p>19 Q. If you could, download and open that document;</p> <p>20 and if the court reporter could mark that as Exhibit 1</p> <p>21 to your deposition.</p> <p>22 (Exhibit 1 marked.)</p> <p>23 A. Okay. I have it in front of me.</p> <p>24 Q. (BY MR. WALTON) Okay. And I'm going to --</p> <p>25 let's see here -- I am going to share my screen simply</p>	<p style="text-align: right;">17</p> <p>1 A. Okay.</p> <p>2 Q. Yes, that's all still contained on page 1 of</p> <p>3 the first exhibit.</p> <p>4 So Paragraph 3 mentions that LGBT Tech is</p> <p>5 a national nonpartisan group of -- and I'll just</p> <p>6 summarize -- of various organizations and other</p> <p>7 companies. How many of these organizations, academics,</p> <p>8 and high technology companies are within the group of</p> <p>9 LGBT Tech?</p> <p>10 A. We are -- we partner with different</p> <p>11 organizations. So, for example, we will work with the</p> <p>12 Center for Democracy and Technology; or we will work</p> <p>13 with ITIF. So it's not a formal affiliation.</p> <p>14 Our formal affiliation is through our</p> <p>15 PowerOn Centers, and those are local organizations. So</p> <p>16 I believe that we are now -- we currently have 49</p> <p>17 PowerOn Centers, but I'm not exactly sure on that</p> <p>18 number. It's somewhere around there. I don't -- I</p> <p>19 don't do that side of the business; but, yeah, it's</p> <p>20 about 49 organizations that we're affiliated with</p> <p>21 through the PowerOn program.</p> <p>22 Q. Gotcha. And are any of those PowerOn Centers,</p> <p>23 are they social media platforms?</p> <p>24 A. No. They're all --</p> <p>25 Q. Okay.</p>

<p>18</p> <p>1 A. They're all service centers for under-</p> <p>2 privileged LGBT individuals. They're community centers.</p> <p>3 Q. I see. And is LGBT Tech a social media</p> <p>4 platform?</p> <p>5 A. It is not.</p> <p>6 Q. And are you an e-mail service provider?</p> <p>7 A. We are not.</p> <p>8 Q. Do you -- do you partner with any social media</p> <p>9 platforms?</p> <p>10 MR. DISHER: Objection, form.</p> <p>11 A. I don't know -- I don't understand. What does</p> <p>12 that mean, "partner"? Do we -- do we talk to them? Do</p> <p>13 we -- I don't know what you're asking.</p> <p>14 Q. (BY MR. WALTON) Sure. I'm happy to clarify.</p> <p>15 I'm trying to -- so when I asked about your group and</p> <p>16 what these organizations are, I thought that was a word</p> <p>17 you used; if not, then forgive me. But if -- these</p> <p>18 other entities and groups and organizations that you're</p> <p>19 discussing policy with, partnering with, et cetera, I'm</p> <p>20 just trying to get a feel for: Are any of those</p> <p>21 entities e-mail service providers or social media</p> <p>22 platforms themselves?</p> <p>23 A. No. We do not partner with them. We do talk</p> <p>24 to different organizations, but we're not partners with</p> <p>25 them.</p>	<p>20</p> <p>1 wanted to ask you about. It's -- I believe it's the</p> <p>2 second sentence, which begins, "First, we engage with</p> <p>3 critical technology and public policy leaders about</p> <p>4 media, technology, and telecommunications issues of</p> <p>5 specific concern to LGBTQ communities." What are those</p> <p>6 issues of specific concern to LGBTQ communities?</p> <p>7 A. So we have a lot of different areas that we</p> <p>8 work in. So, obviously, Section 230 is the one you're</p> <p>9 aware of through this deposition -- I mean, through this</p> <p>10 declaration.</p> <p>11 We've also spoken about encryption and</p> <p>12 the importance of encryption for LGBT communities. We</p> <p>13 do a lot of work around telehealth and the importance of</p> <p>14 broadband for telehealth and why telehealth is important</p> <p>15 for LGBT communities.</p> <p>16 We are thought leaders on digital divide</p> <p>17 issues, meaning, talking about why digital divide in</p> <p>18 American is especially harmful for LGBT communities.</p> <p>19 We talk about things as broad as XR and</p> <p>20 VR environments. We've spoken out about, you know, how</p> <p>21 VR worlds should be shaped so that LGBT communities are</p> <p>22 included, how to make it more inclusive, the benefits of</p> <p>23 VR worlds.</p> <p>24 We've talked about data privacy</p> <p>25 protection policies, why they're important to LGBT</p>
<p>19</p> <p>1 Q. Okay. And these organizations that you talk</p> <p>2 to, are any of them social media platforms?</p> <p>3 A. Yes.</p> <p>4 Q. Which ones?</p> <p>5 A. We talk to Facebook and -- is that the only</p> <p>6 one? I think that may be it.</p> <p>7 Q. Okay.</p> <p>8 A. As a social media provider, yeah.</p> <p>9 Q. Okay. And do you talk to any other</p> <p>10 organizations that are e-mail service providers?</p> <p>11 A. No.</p> <p>12 Q. Okay. So with Facebook, have you talked to</p> <p>13 Facebook about HB 20?</p> <p>14 A. No, not in any more -- not in anything more</p> <p>15 than letting them know we filed the declaration.</p> <p>16 Q. I see. So do you know what Facebook's</p> <p>17 position is regarding HB 20?</p> <p>18 MR. DISHER: Objection, form.</p> <p>19 A. I don't. I mean, my understanding is that</p> <p>20 they are not -- I'm trying -- let me make sure I get</p> <p>21 this right. They haven't expressed any reservations</p> <p>22 about their work with us, but we haven't talked about</p> <p>23 their position on HB 20.</p> <p>24 Q. (BY MR. WALTON) Okay. When you -- when you</p> <p>25 say here in Paragraph 3 -- there was a specific phrase I</p>	<p>21</p> <p>1 communities, so a lot around privacy in technology. So</p> <p>2 it's a broad range of subjects.</p> <p>3 Q. And can you describe why these are issues of</p> <p>4 specific concern to the LGBTQ communities, as opposed to</p> <p>5 just issues of concern to the public at large?</p> <p>6 A. Sure. Do you want me to go, like, one by one</p> <p>7 through each category and why it's important?</p> <p>8 Q. Yes, that's a good question. Why don't you</p> <p>9 give me a couple of examples?</p> <p>10 A. So, for example, with telehealth, you know,</p> <p>11 we'll talk a lot about why, you know, being able to have</p> <p>12 a telehealth policy or having robust telehealth laws</p> <p>13 will be good for our community because there's a lot of</p> <p>14 LGBT individuals, you know, in smaller rural communities</p> <p>15 that may only have access to one doctor that goes to</p> <p>16 their church or sees their parents; and they may need to</p> <p>17 be speaking to someone that's not local. And telehealth</p> <p>18 gives our community the ability to speak to doctors that</p> <p>19 are, A, going to be sympathetic to their needs; B,</p> <p>20 knowledgeable about the specific issues of LGBT</p> <p>21 individuals; and, C, not prejudice. So telehealth for</p> <p>22 LGBT people, especially for transgender individuals who</p> <p>23 may be starting a journey that doesn't -- where they</p> <p>24 don't know who to reach out to, helps them in a way that</p> <p>25 other communities are not.</p>

<p>22</p> <p>1 One of the other areas that we talked 2 about -- you know, we talked about, for example, VR, 3 right, virtual reality. And one of the concerns that we 4 have is kind of like we know from our research and from 5 other areas that a lot of transgender and nonbinary 6 individuals are using virtual reality environments to 7 try out new identities online so that their avatars may 8 be, you know, representing a different gender identity 9 than they present in real life. And we've talked to 10 companies about how it's important to protect, you know, 11 something like an avatar, who now becomes sensitive 12 information and sensitive data because if somebody gets 13 hold of that avatar, it may raise questions of outing 14 someone.</p> <p>15 Geolocation within a VR world is 16 important. A lot of VR worlds will post where you are 17 in that world, so it will say so-and-so is at this world 18 or that world. For someone who is going in that is not 19 out and is going into LGBT worlds within a VR world, 20 their location would also be something that's sensitive. 21 So we would be advising companies to make sure that, you 22 know, if you're going to make something public, that has 23 to be something that can be toggled by an individual so 24 that they have privacy.</p> <p>25 If we're going to talk about digital</p>	<p>24</p> <p>1 suggest or implement any privacy policies for Facebook 2 users?</p> <p>3 A. Well, I'm under an NDA with Facebook. So I 4 don't think I can talk about the specific work that I do 5 with them.</p> <p>6 Q. Okay. What about Section 230? You said that 7 those were -- that was one of the areas where LGBT Tech 8 works, you know, on policy issues. What are some of the 9 policy concerns connected with Section 230 that are 10 unique to or special to the LGBT community?</p> <p>11 A. Well, I mean, you know, I -- I am a lawyer, 12 you know, a recovering lawyer; but one of the things 13 that has always struck me as I went through law school 14 was just kind of the importance of Section 230 for 15 marginalized communities, like the LGBT community, and 16 how Section 230 really was one of the foundational 17 steppingstones for LGBT communities to go online and 18 feel heard and seen in a way that they hadn't before.</p> <p>19 So the protections of Section 230 is what 20 allowed a lot of LGBT communities to flourish online, 21 including transgender communities. YouTube, for 22 example, was one of the first places where transgender 23 individuals felt free to go online and kind of do makeup 24 tutorial videos or talk about transition or the 25 medicines they were taking.</p>
<p>23</p> <p>1 divide issues, again, LGBT individuals are one of the 2 few minorities that are discriminated against or can be 3 discriminated against in their own home. So most other 4 people can go home and kind of find a safe space to kind 5 of, you know, explore or to ask questions about their 6 identity or why they're being discriminated against. 7 LGBT individuals may be facing discrimination at home; 8 and, therefore, we turn to social media and these 9 platforms at a younger age, earlier, and with more kind 10 of, you know, more stickiness than other communities for 11 community building, for finding information, for 12 exploring identity.</p> <p>13 So all of these are not issues that are 14 not -- that are only affecting the LGBT community, but 15 there are specific impacts because of the dangers of 16 outing and other privacy reasons why it's important to 17 have our voice heard when policies are being made about 18 how data's going to be handled, how privacy's going to 19 be handled, how money's going to be dispersed, you know, 20 to different organizations. All of that is -- you know, 21 all we do is talk about technology that's happening now 22 and specific concerns that may be sensitivities for the 23 LGBT community.</p> <p>24 Q. As far as -- I know you mentioned earlier 25 Facebook. Have you worked with Facebook to either</p>	<p>25</p> <p>1 So Section 230 allowed social media 2 companies and others to give a platform to our voices, 3 and so I'm already leery of any kind of suggestions from 4 the left or the right of getting rid of 230 or changing 5 it because my concern is that the changes that are being 6 proposed will have a harmful impact on our community 7 either way.</p> <p>8 Q. So I take it then that you're in favor of 9 Section 230?</p> <p>10 MR. DISHER: Objection, form.</p> <p>11 A. I am indeed a -- I am a -- yes. I think 230 12 is -- has been a crucial law for the flourishing of 13 marginalized communities online.</p> <p>14 Q (BY MR. WALTON) Sure. And I know we're here 15 today to talk and HB 20; but since you mentioned 16 Section 230, if you had the opportunity to rewrite 17 Section 230, would you add anything or change anything 18 to it or do you like it as written?</p> <p>19 A. I think --</p> <p>20 MR. DISHER: Hold on. Hold on. Hold on.</p> <p>21 Objection, form.</p> <p>22 THE WITNESS: Can I answer?</p> <p>23 MR. DISHER: Yes, go ahead.</p> <p>24 A. I think that the changes that I have seen from 25 both sides are troublesome and bring a whole bunch of</p>

<p style="text-align: right;">26</p> <p>1 new issues, so I would advocate for Section 230 to stay 2 as it is.</p> <p>3 Q (BY MR. WALTON) Okay. I think we've pretty 4 much covered what I wanted to through Paragraph 4. 5 So let me skip to Paragraph 5 of your 6 declaration. We're now on page -- well, I guess it's 7 page 3 of the PDF. Are you able to see Paragraph 5 of 8 your declaration, sir?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. You say here in the first bullet point 11 that there are high numbers of LGBT youth who use the 12 internet to search for health information. When you say 13 "high numbers," what does that mean?</p> <p>14 A. I believe that's in one of the exhibits that 15 we provided, the research that we did on LGBT youth 16 online; and I'll have to look back at that because I 17 actually didn't re-review that. But what that means is 18 that our research shows that when compared to cisgender 19 or heterosexual people, LGBT individuals tend to go 20 online at an earlier age and use online communities at a 21 higher percentage than their counterparts in the 22 hetero/cis community.</p> <p>23 Q. So when you say that they're searching for 24 health information, I guess, how broad was the scope of 25 that phrase "health information" in your research?</p>	<p style="text-align: right;">28</p> <p>1 information.</p> <p>2 Q. Okay. And I apologize for my pauses here. 3 I'm simply trying to streamline things to where we 4 don't -- hopefully we don't waste our time with 5 unnecessary questions here.</p> <p>6 I want to jump down to Paragraph 6, and I 7 believe that's on the next page. So it would be page 4 8 of the PDF file. Do you see Paragraph 6?</p> <p>9 A. I do.</p> <p>10 Q. The first bullet point there uses the phrase 11 "adequate privacy controls."</p> <p>12 A. Uh-huh.</p> <p>13 Q. What are "adequate privacy controls"?</p> <p>14 MR. DISHER: Objection, form. 15 Go ahead and answer.</p> <p>16 A. I mean, I think as part of kind of the civil 17 rights community, this is an ongoing discussion, an 18 ongoing discussion with social media companies. I think 19 for us, when we talk about adequate privacy controls, it 20 talks -- it means mainly user control over a lot of the 21 information that goes out and being able to kind of 22 protect that information. So when -- when we talk about 23 adequate privacy controls, we advocate generally for 24 more user control over what data is being used and what 25 data they release.</p>
<p style="text-align: right;">27</p> <p>1 A. I think it was that phrase, like, they would 2 search for "health information" online; and, again, I'll 3 have to look at the research again. I did not review 4 that for this deposition. So all my answers are from 5 memory from going way back.</p> <p>6 Q. Sure. That's fine, and I certainly don't want 7 you to -- 8 (Simultaneous speakers.)</p> <p>9 A. Broad questions. They were broad questions 10 about --</p> <p>11 Q. Okay.</p> <p>12 A. -- attitudes and usage of the internet for 13 LGBT individuals.</p> <p>14 Q. When they search the internet for this 15 information, how much of that -- how much of that is 16 done through social media platforms versus just, you 17 know, internet search engines?</p> <p>18 MR. DISHER: Objection, form. 19 Go ahead.</p> <p>20 A. I don't know. That's not a question we asked 21 in the research. We didn't split it out like that.</p> <p>22 Q (BY MR. WALTON) Okay.</p> <p>23 A. Our attitudes were not -- the research was 24 about online usage, not social media usage. So we 25 didn't differentiate between how they came to the</p>	<p style="text-align: right;">29</p> <p>1 Q. (BY MR. WALTON) So in this -- this may be 2 something that you probably know a lot more about than I 3 do; but when it comes to -- so the next bullet point 4 there is going to say "adequate content moderation 5 policies."</p> <p>6 A. Right.</p> <p>7 Q. What's the difference between a privacy 8 control and a content moderation policy?</p> <p>9 A. So a privacy control would be, for example, if 10 I list my status as married or if I list my sexual 11 orientation as gay on a social media site, that I have a 12 toggle that allows that to be private and not be seen by 13 other people. So that would be a privacy control in 14 terms of keeping the data that I have on my social media 15 profiles private.</p> <p>16 Moderation policy goes to kind of the 17 interactions online and kind of what is allowed to be on 18 the service that I'm on. So a content moderation policy 19 would be something that screens out the word "queer" or 20 "dyke" or anything like that in a hate-speech content 21 for our -- you know, for me, so that I don't have to 22 come across that.</p> <p>23 Q. How -- well, let me ask it this way: With 24 the concerns that LGBT Tech has regarding HB 20, do 25 those concerns arise in the context of privacy controls?</p>

<p>30</p> <p>1 MR. DISHER: Objection, form.</p> <p>2 A. It arises more in the content moderation</p> <p>3 policies and the ability under HB 20 for anyone to kind</p> <p>4 of put any speech online without, you know -- if it's</p> <p>5 not illegal, it's allowed on; and that's a very high</p> <p>6 standard that has never been helpful for marginalized</p> <p>7 communities, like LGBT.</p> <p>8 Q. (BY MR. WALTON) Okay. Okay. I just wanted</p> <p>9 to make sure I wasn't missing something, if you saw a</p> <p>10 concern with HB 20 and privacy controls.</p> <p>11 MR. DISHER: Objection --</p> <p>12 A. I --</p> <p>13 MR. DISHER: Hold on. Hold on.</p> <p>14 Objection, form.</p> <p>15 THE WITNESS: Sorry.</p> <p>16 A. No. You know, we're a small organization; and</p> <p>17 where we're most impactful is picking an issue and</p> <p>18 sticking to that issue. And the issue that we picked is</p> <p>19 this because there's a lot of organizations that are</p> <p>20 doing work that can speak very eloquently about a lot of</p> <p>21 the other parts of the bill; but we felt that our best</p> <p>22 and most impactful work would be to highlight the</p> <p>23 dangers for LGBT communities from removing content</p> <p>24 moderation policies or changing them in a way that our</p> <p>25 community might be affected. So we were very focused.</p>	<p>32</p> <p>1 only that as we continue these conversations, that they</p> <p>2 become better at protecting LGBT communities; but I</p> <p>3 don't have an answer as to what a adequate content</p> <p>4 moderation policy would look like, you know, in its</p> <p>5 final form.</p> <p>6 Q. (BY MR. WALTON) Okay. The content moderation</p> <p>7 policies that you've seen in place currently today, how</p> <p>8 adequate do you think the industry is right now with</p> <p>9 their content moderation policies at protecting against</p> <p>10 homophobia, bullying, and these other things that you've</p> <p>11 mentioned?</p> <p>12 MR. DISHER: Objection, form.</p> <p>13 A. I think they can -- I think they can be</p> <p>14 better. I think there can be more attention paid to the</p> <p>15 content that's being put out there; but, generally, I</p> <p>16 think that the companies are doing a good job of keeping</p> <p>17 the most -- the worst of the worst off social media.</p> <p>18 And in conversations with companies, it does seem like</p> <p>19 they are taking the steps to kind of include LGBT</p> <p>20 communities in their policies moving forward.</p> <p>21 Q. (BY MR. WALTON) I want to go to Paragraph 7</p> <p>22 now. Let's see. The third line from the bottom, the</p> <p>23 last full sentence says, "We are greatly concerned that</p> <p>24 this law will make the internet, including the very</p> <p>25 services and platforms LGBTQ individuals use daily,</p>
<p>31</p> <p>1 Again, resources-wise we just don't have</p> <p>2 the ability to tackle every issue; but we pick where we</p> <p>3 think we would be most impactful and our kind of --</p> <p>4 here, our discussion is about moderation policies and</p> <p>5 their importance for our community.</p> <p>6 Q. (BY MR. WALTON) Okay. So then in that second</p> <p>7 bullet point, let's go ahead and move into that. It</p> <p>8 says, "Without adequate content moderation policies,</p> <p>9 digital forums and apps can become breeding grounds for</p> <p>10 homophobia, bullying (cyber and otherwise), harassment,</p> <p>11 and misinformation." So what content moderation</p> <p>12 policies would be adequate?</p> <p>13 MR. DISHER: Objection, form.</p> <p>14 A. I mean, there's no one answer for this. It's</p> <p>15 an ongoing discussion with social media companies. I</p> <p>16 think this is kind of the holy grail of the</p> <p>17 conversation; and I think that the problem is that as</p> <p>18 you try to address one thing, other things have, you</p> <p>19 know, different priorities.</p> <p>20 I think we are talking to companies to</p> <p>21 continue evolving in terms of their policies. We talk</p> <p>22 to them to make sure that LGBT people are being</p> <p>23 protected under the policies, but we don't have an</p> <p>24 answer as to what final adequate content moderation</p> <p>25 policy would be. It's incremental. And our hope is</p>	<p>33</p> <p>1 unsafe to such an extent that LGBTQ communities will</p> <p>2 lose valuable -- indeed, sometimes life-saving --</p> <p>3 information and services." What are the valuable</p> <p>4 information and services that you're referring to here?</p> <p>5 A. I mean, part of this is, obviously, health</p> <p>6 information. We talk further down in the declaration</p> <p>7 about a good example, which is conversion therapy; and</p> <p>8 we are very concerned that if there is no censoring of</p> <p>9 content or if platforms are not allowed to kind of block</p> <p>10 misinformation about conversion therapy, for example, as</p> <p>11 a health alternative for individuals that are struggling</p> <p>12 with their sexuality, that forums that talk about, you</p> <p>13 know, how to be a, you know, stable, psychologically</p> <p>14 happy LGBT person will be flooded with content that's</p> <p>15 seeking to convert them or in other ways kind of change</p> <p>16 their mind, without any recourse.</p> <p>17 Q. So -- and I promise I'm not trying to be</p> <p>18 difficult -- it sounds there like, with that example you</p> <p>19 used, which we can talk about in a few minutes, of</p> <p>20 conversion therapy, that's wanting to sort of, you know,</p> <p>21 block out what you're saying is bad information.</p> <p>22 I guess my question was more: What is</p> <p>23 the good information, the valuable information and</p> <p>24 services, that LGBT communities would lose access to if</p> <p>25 HB 20 went into effect?</p>

<p>34</p> <p>1 MR. DISHER: Objection, form.</p> <p>2 A. I mean, it's more of, you know, the harassment</p> <p>3 that can come to LGBT websites would become so</p> <p>4 incremental that it would be hard to kind of conduct</p> <p>5 business on a lot of these platforms.</p> <p>6 We have seen a very noticeable uptick in</p> <p>7 anti-transgender attacks since a lot of the bills have</p> <p>8 been introduced, about, I don't know, transgender</p> <p>9 athlete bans in states. There's been a lot of</p> <p>10 misinformation posted about transgender individuals.</p> <p>11 There's been a lot of bad naming, calling them by their</p> <p>12 previous name. There's been a lot of misinformation</p> <p>13 about what transgender individuals can or cannot do once</p> <p>14 they transition to another gender.</p> <p>15 And I feel that there's a lot of</p> <p>16 resources and a lot of websites out there that are</p> <p>17 trying to combat a lot of misconceptions that would be</p> <p>18 drowned out in hate speech and harassment without a</p> <p>19 platform being able to filter that out or block that</p> <p>20 speech.</p> <p>21 So there's, you know -- even our website,</p> <p>22 you know, on Twitter, we will get, you know, hate mail</p> <p>23 for stuff that we -- that we print. So the issue is</p> <p>24 that a lot of the platforms that we use daily, like,</p> <p>25 Twitter and everyone else, if we are -- if this is</p>	<p>36</p> <p>1 can be life-saving?</p> <p>2 A. So, for example, when we talk about conversion</p> <p>3 therapy, there are online resources for people who have</p> <p>4 gone through conversion therapy, who have survived it;</p> <p>5 people who were advocates of conversion therapy who</p> <p>6 have now, you know, gone and come out anti-conversion</p> <p>7 therapy. So these resources are people who are going</p> <p>8 through this or who -- whose parents may be forcing them</p> <p>9 into conversion therapy will become a lot less useful if</p> <p>10 they're not, you know, controlled and moderated; and</p> <p>11 those could be life-saving. People who are going</p> <p>12 through conversion therapy are trans individuals who are</p> <p>13 seeking support online for their identity who are going</p> <p>14 to be drowned in anti-trans speech. Those resources</p> <p>15 would be jeopardized if there is no content moderation</p> <p>16 of such speech.</p> <p>17 Q. Okay. Flipping down to Paragraph 8 here,</p> <p>18 which spans the bottom of page 4 and the top of page 5,</p> <p>19 if we're going by just the PDF pagination here, are you</p> <p>20 able to see Paragraph 8 of your declaration?</p> <p>21 A. I am.</p> <p>22 Q. It says here -- and I won't read the whole</p> <p>23 sentence -- but the first sentence uses the phrase "will</p> <p>24 inflict unique harms on LGBTQ communities and</p> <p>25 individuals." It's my understanding that your</p>
<p>35</p> <p>1 allowed to come into play, the sheer amount of</p> <p>2 harassment and bullying will drive a lot of people off</p> <p>3 these platforms.</p> <p>4 Q. (BY MR. WALTON) And, I guess, is that based</p> <p>5 on -- is that based on studies that you've done?</p> <p>6 A. No, it's not.</p> <p>7 Q. Okay. When you say that -- I mean, to a</p> <p>8 certain extent, I -- when you say that bullying or</p> <p>9 harassment can drive people off of platforms, are there</p> <p>10 any studies that you're aware of that have been done to</p> <p>11 show how that happens, what the numbers -- what the</p> <p>12 statistics are for how that might happen?</p> <p>13 A. I've seen studies on transgender individuals</p> <p>14 and their rights and transgender bullying. I mean, I</p> <p>15 can certainly pull up a link at some point, but I've</p> <p>16 definitely seen work by other civil rights organizations</p> <p>17 around this issue and hate speech in LGBT communities.</p> <p>18 So, yeah, there's definitely research out there to this</p> <p>19 end. I don't have it in front of me, and I didn't</p> <p>20 review it before this deposition.</p> <p>21 Q. Okay. You didn't review those studies for the</p> <p>22 purposes of this declaration, then?</p> <p>23 A. No.</p> <p>24 Q. Okay. What specifically do you mean here when</p> <p>25 you say that sometimes these information and services</p>	<p>37</p> <p>1 declaration is saying here that HB 20 would impose</p> <p>2 unique harms on LGBTQ people. What are the unique harms</p> <p>3 that it would pose?</p> <p>4 A. A --</p> <p>5 MR. DISHER: Objection, for- -- hold on.</p> <p>6 Objection, form.</p> <p>7 Go ahead and answer.</p> <p>8 Q. (BY MR. WALTON) And if I've misstated or</p> <p>9 mischaracterized your testimony here, I welcome your</p> <p>10 feedback and clarification.</p> <p>11 A. Can you state what you asked again because I</p> <p>12 want to make sure that I got -- that I do get it right?</p> <p>13 Q. Sure. I'm just wondering: What are the</p> <p>14 unique harms that that first sentence in Paragraph 8 is</p> <p>15 referring to?</p> <p>16 A. Okay. So -- and this is supported by</p> <p>17 research -- you know, LGBT individuals face online</p> <p>18 harassment at a much higher percent- -- I think,</p> <p>19 actually, this in the declaration down below. The</p> <p>20 percentages are below, in the paragraph down below, that</p> <p>21 we face online harassment at a higher rate. Anti-gay</p> <p>22 slurs are used not only against LGBT individuals but</p> <p>23 against heterosexual individuals as a slur. So when --</p> <p>24 if you're opening the floodgates to "any speech is</p> <p>25 allowed," marginalized communities, like the LGBT</p>

<p>38</p> <p>1 community, are going to become the bigger targets of 2 that hate speech and that awful speech than other 3 communities. 4 So we are, again, talking about the trans 5 ban on sports and gender-transforming surgery for teens. 6 Once those conversations come up, the amount of hate 7 speech that comes into these conversations is 8 significant; and if that is allowed without any kind of 9 restriction, it will have a unique and dangerous impact 10 in LGBTQ communities, especially for marginalized 11 individuals who are already being discriminated against 12 in their real lives and may be looking online for 13 support and resources. 14 So the impact on LGBT communities of such 15 a law will be greater, as it will be for all 16 marginalized communities that are dealing with hate 17 speech, you know, with an influx of hate speech as it 18 is, with content moderation. 19 Q. With this hate speech against LGBTQ 20 communities, have you done any studies or research to 21 determine how much of that hate speech is religiously 22 motivated versus how much of it is not religiously 23 motivated? 24 MR. DISHER: Objection, form. 25 A. No.</p>	<p>40</p> <p>1 how would you advocate for a content moderation policy 2 to deal with those nuances or differences? 3 MR. DISHER: Objection, form. 4 A. I can't answer that. I haven't thought 5 through it that deeply to that specific issue, so I 6 don't have an answer for that. 7 Q. (BY MR. WALTON) Okay. That's fine. 8 Well, I guess let's jump over to 9 Paragraph 9. Now, we're fully on page 5 of this PDF. 10 And this is what you mentioned earlier about your 11 example of conversion therapy. 12 I guess just to pick up where I just left 13 off with that last question -- well, let me just ask it 14 this way: Do you believe that all information about 15 conversion therapy should be removed from social media 16 platforms? 17 MR. DISHER: Objection, form. 18 A. All information supporting conversion therapy? 19 Q. (BY MR. WALTON) That's a good clarification. 20 Okay. So, yeah, all information that would support 21 conversion therapy or any advocacy in favor of 22 conversion therapy, do you believe that that should be 23 removed from social media platforms? 24 MR. DISHER: Objection, form. 25 A. I don't -- I can't say that I would make that</p>
<p>39</p> <p>1 Q. (BY MR. WALTON) Are you aware of either hate 2 speech or slurs against any part of the LGBTQ community 3 that is religiously motivated? 4 MR. DISHER: Objection, form. 5 A. Yes. 6 Q. (BY MR. WALTON) How does LGBT Tech -- or, I 7 guess, what is the policy on how to deal with hate 8 speech that would be religiously motivated? Should that 9 speech be allowed because it's religiously motivated, or 10 should it be not allowed or censored or removed because 11 it's hate speech? How do y'all deal with that tension 12 there? 13 MR. DISHER: Objection, form. 14 A. It's -- it's just that for our perspective, 15 that's just too much of a blanket statement. I mean, it 16 depends on the speech. Somebody saying, you know, "My 17 child's gay, and he won't be saved" is very different 18 than saying, "All fags should go to hell and burn in 19 hell." Both are religiously motivated, but they would 20 be treated differently. So it's not -- as a broad 21 category, I can't answer how religious speech on LGBT 22 would be treated because it's a much more nuanced 23 question than that. 24 Q. (BY MR. WALTON) Okay. As far as the content 25 moderation policies that your group would advocate for,</p>	<p>41</p> <p>1 a hundred percent blanket statement. I -- there's just 2 a lot of difference in areas that I'm not aware of or, 3 you know, there are a lot of things that could be very 4 innocuous or innocent that -- so I can't answer that 5 question "yes" or "no." 6 Q. (BY MR. WALTON) Okay. Then, you know, in -- 7 in your perfect world, what would the content moderation 8 policy look like as applied to posts about conversion 9 therapy? 10 MR. DISHER: Objection, form. 11 A. I think that, you know, one of the areas I 12 would be very concerned about and focus on would be 13 misinformation, medical misinformation, or treating it 14 as medical information. So, in a perfect world, any 15 conversion therapy posts or information that purports to 16 paint it as a valid medical or psychological procedure 17 should at least be restricted, if not banned. 18 Q. (BY MR. WALTON) And when you say 19 "restricted," what do you mean by that? 20 A. Meaning, you know, moderated or allowed in 21 certain groups that are created for that purpose versus 22 generally being able to be anywhere on the internet. 23 Q. I see. Are you aware -- and I even hate to 24 ask this question because I'm not a social media guru -- 25 but are you aware that on some social media platforms</p>

<p style="text-align: right;">42</p> <p>1 that some information, some posts, could be removed 2 completely or some information or posts could be set 3 such that not as many people might see and then some 4 information or posts might just be flagged with an 5 information, whether it's, you know, "This has been fact 6 checked," or whatever, generally -- that's not the term 7 of art; and I don't want to put words in your mouth. 8 But when I start talking about examples like that, do 9 you know what I'm referring to?</p> <p>10 MR. DISHER: Objection, form.</p> <p>11 A. Yeah, like, shadow banning kind of techniques, 12 yeah, so where something can be devalued in an algorithm 13 because it's not seen as valuable information, it's 14 junky, or it's not verified. So, yeah, that's one --</p> <p>15 Q. (BY MR. WALTON) Okay.</p> <p>16 A. -- of the policies I think you're talking 17 about.</p> <p>18 Q. Sure. And, you know, where -- I guess, among 19 those different types of options, what would you see the 20 best way is to deal with information advocating 21 conversion therapy?</p> <p>22 MR. DISHER: Objection, form.</p> <p>23 A. The answer is: I don't know. I've had a lot 24 of conversations with a lot of civil rights societies; 25 and I'm sure as you work through this, you'll see that</p>	<p style="text-align: right;">44</p> <p>1 categories of that could be sliced so thinly in so many 2 ways that it -- you know, it's not a yes-or-no question, 3 in my mind.</p> <p>4 Q. (BY MR. WALTON) Okay. In Paragraph 9, while 5 we're still on it, you use the word "dangerous." Are 6 there -- are there any other types of information other 7 than conversion therapy that you believe are dangerous?</p> <p>8 A. I gave -- 9 (Simultaneous speakers.)</p> <p>10 MR. DISHER: Hold on.</p> <p>11 Objection, form.</p> <p>12 Go ahead.</p> <p>13 A. I gave you examples of other areas, without 14 being totally exhaustive, obviously; but transgender 15 content, you know, as we talk about transgender teens, 16 who are starting to talk about transitioning, there's 17 dangerous misinformation out there about what that 18 entails and definitely the wrong medical information 19 about the effects of transgender hormone therapies and 20 everything else. So for transgender individuals, 21 definitely, you know, there's a whole area where when 22 they're exploring transitioning, there's a lot of 23 dangerous misinformation out there for them as an 24 example.</p> <p>25 Q. (BY MR. WALTON) Sure. So how do you -- if a</p>
<p style="text-align: right;">43</p> <p>1 there's as many opinions on what the adequate remedy is 2 as there are people, you know, giving you the remedy. 3 So I don't know what the answer is.</p> <p>4 You know, we -- we are -- like I said, 5 we're a three-person organization. So we are focused on 6 raising issues that are important to us, but we are not 7 getting into the weeds on a lot of these issues in kind 8 of the granular detail that we're talking about here. 9 So it's not something that I've thought about in the 10 sense of developing policy of what should be done, you 11 know. We're raising the alarm as to, you know, 12 unintended consequences of changes to a law that we feel 13 has protected the LGBT community.</p> <p>14 Q. (BY MR. WALTON) Gotcha. With regard to 15 information that promotes or advocates for conversion 16 therapy, do you think it would be sufficient for social 17 media platforms to just put a flag or put a note on all 18 of those posts that say, "Hey, this is medical 19 misinformation"; or do you think something more needs to 20 be done?</p> <p>21 MR. DISHER: Objection, form.</p> <p>22 A. Again, I don't know without looking at a 23 specific post and what -- the details on how it's 24 addressed and what information's in it. I think that -- 25 I couldn't answer that question just broadly because the</p>	<p style="text-align: right;">45</p> <p>1 social media platform wanted to moderate content that 2 was dangerous, what sort of guidelines do they go by in 3 determining what's dangerous and what's not?</p> <p>4 MR. DISHER: Objection, form.</p> <p>5 A. I don't know what guidelines they go by. I 6 haven't talked to social media companies specifically 7 about what specific guidelines they have, and they 8 wouldn't -- they wouldn't tell me even if I asked.</p> <p>9 Q. (BY MR. WALTON) Sure. What would you 10 recommend to them if they asked your opinion?</p> <p>11 MR. DISHER: Objection, form.</p> <p>12 A. When it comes to this type of content, I think 13 that -- I find it hard to answer these questions because 14 you're asking kind of a general statement on a category 15 without kind of -- me thinking about kind of all the 16 different levels of content that could be there.</p> <p>17 And I think when you ask me, like, what 18 a general policy would look like ideally, this is the 19 problem that we run into in talking about it -- and 20 it's going to be the same problem we have in our 21 conversation -- is that I don't know exactly what it is 22 because there are different levels of content and there 23 are -- there is something that's very simple as saying, 24 you know, "I" -- you know, "I don't believe kids should 25 have any kind of hormone therapy" versus, you know, much</p>

<p>46</p> <p>1 more dangerous information about hormone therapy being 2 really bad for an individual and unhealthy. So medical 3 information like that is very different than somebody's 4 opinion. 5 So if we talk about this, I don't know 6 what I would advise because there's just 8 million ways 7 to slice this issue. So I don't want to give you an 8 incomplete answer. 9 Q. Sure. No, I appreciate that. 10 MR. WALTON: We've been going close to an 11 hour here. Todd, do you mind if we take a brief break? 12 MR. DISHER: Yes, that's fine. 13 MR. WALTON: Okay. Maybe -- maybe ten 14 minutes or so and then regroup? 15 MR. DISHER: Sounds good. So let's just 16 say 9:10 Eastern, 8:10 Central. 17 MR. WALTON: I guess that would be 9:10 18 Central. 19 MR. DISHER: Oh, you're right. My laptop 20 is still on Central time. 21 MR. WALTON: Oh, okay. All right. 22 MR. DISHER: 9:10 Centr -- 23 (Simultaneous speakers.) 24 MR. DISHER: So 10:10 on my cell phone, 25 9:10 on my laptop.</p>	<p>48</p> <p>1 MR. DISHER: Objection, form. 2 A. So you're saying that literally it's just 3 anti-trans and homophobic content? 4 Q. (BY MR. WALTON) Yes. 5 A. Under current Section 230 that would be 6 protected, and I am a proponent of Section 230 7 protection. So that website could be in its own space 8 with its own people. It can regulate however it wants 9 its own content. 10 Q. And I think we touched on this earlier; but in 11 content moderation, how do -- how do you distinguish 12 between hate speech that is religiously based and hate 13 speech that's not religiously based? 14 MR. DISHER: Objection, form. 15 A. I don't. I've never made that distinction. 16 Q. (BY MR. WALTON) So if there was -- if there 17 was hate speech that was religiously motivated, how 18 should it be dealt with? 19 MR. DISHER: Objection, form. 20 A. Again, it's too broad of a category, you know. 21 It's about what the specific speech is. And, you know, 22 I think it's more about what the speech is rather than 23 what the viewpoint of the person making the speech is, 24 which is why we haven't gotten into kind of dissecting 25 between religious hate speech and other types of hate</p>
<p>47</p> <p>1 THE WITNESS: There you go. 2 MR. WALTON: That's right. 3 MR. DISHER: Okay. 4 THE WITNESS: All right. See you back in 5 ten. 6 MR. WALTON: Are we off the record, 7 Debbie? 8 THE REPORTER: We're going off the record 9 at 9:00 a.m. 10 (Off the record from 9:00 to 9:14 a.m.) 11 THE REPORTER: We're going back on the 12 record at 9:14 a.m. 13 Q. (BY MR. WALTON) Mr. Gutierrez, we are back 14 after a brief break. Are you ready to proceed with your 15 deposition? 16 A. I am. 17 Q. Let's go to Paragraph 10 of your declaration, 18 and we're at the bottom of the fifth page here in the 19 PDF file, still with Exhibit 1. Do you see 20 Paragraph 10, sir? 21 A. I do. 22 Q. What if -- what if there was a social media 23 platform that was simply devoted to this sort of hate 24 speech that you describe here? Should that platform be 25 subject to regulation?</p>	<p>49</p> <p>1 speech. 2 Q. (BY MR. WALTON) I gotcha. Well, let's just 3 take your first bullet point here in your Paragraph 10. 4 Let's say that there were some people who said that it 5 was their religious belief that transgender individuals 6 were mentally ill. Should that speech be permitted, or 7 should it be censored? 8 MR. DISHER: Objection, form. 9 You can answer if you can. 10 THE WITNESS: I am. I'm thinking about 11 how to answer this. 12 MR. DISHER: Okay. I just wanted to 13 clarify. 14 THE WITNESS: Yeah. 15 A. No, I'm answering -- yeah, I'm going to answer 16 the same way. It's very hard for me to make a blanket 17 answer about speech and say any content is -- you know, 18 there's definitely degrees of what this means. There's 19 definitely degrees of how it's said, the aggressiveness 20 of it, kind of. I don't feel comfortable kind of making 21 a blanket statement that any type of speech as a general 22 category should be on or off a platform. 23 Q. (BY MR. WALTON) I gotcha. And would that 24 apply then, to these types of speech that you've listed 25 for us in Paragraph 10?</p>

<p>50</p> <p>1 A. Yeah.</p> <p>2 MR. DISHER: Objection, form.</p> <p>3 Go ahead.</p> <p>4 A. Yes.</p> <p>5 Q. (BY MR. WALTON) Okay.</p> <p>6 A. It's -- you know, it's obscenity all over</p> <p>7 again, you know, when you see a kind of question. So</p> <p>8 it's hard to say this is hate speech or this isn't hate</p> <p>9 speech and go into categories that way. There are a lot</p> <p>10 of people who may feel things about transgender</p> <p>11 individuals that are not correct that don't rise to the</p> <p>12 level of hate speech; and whether it's religiously</p> <p>13 motivated or not, it's not really what we look at.</p> <p>14 And, also, just kind of saying whether --</p> <p>15 you know, as a statement in general whether it should be</p> <p>16 banned or not, again, it's not something I feel</p> <p>17 comfortable, you know, saying "yes" or "no" to because</p> <p>18 it's a very broad category; and there's a lot of nuances</p> <p>19 that could come into play here.</p> <p>20 Q. Let's move down to Paragraph 11, and this is</p> <p>21 the -- page 6 of the PDF file, still in Exhibit 1. Do</p> <p>22 you see Paragraph 11?</p> <p>23 A. I do.</p> <p>24 Q. The statistic that you cite here, "68 percent</p> <p>25 of LGBTQ adults have encountered online hate and</p>	<p>52</p> <p>1 you mean by that?</p> <p>2 A. It means that we have now gotten to a place</p> <p>3 on social media sites where there is kind of a sense</p> <p>4 of protection and culture and acceptance for LGBT</p> <p>5 individuals that was not possible before the advent of</p> <p>6 the internet, and allowing these places to be invaded by</p> <p>7 hate speech without any kind of restriction would bring</p> <p>8 us back to the place of constant harassment by</p> <p>9 individuals who are anti-LGBT. That's what we meant by</p> <p>10 that sentence.</p> <p>11 Q. Going to Paragraph 13 -- and I know it starts</p> <p>12 at the bottom of page 6; it continues to the top of</p> <p>13 page 7 -- and I want to ask you about something that</p> <p>14 actually appears at the top of page 7. The first full</p> <p>15 sentence that begins from the top of that page, it says,</p> <p>16 "Put simply, few users -- gay, straight, trans; white,</p> <p>17 black, brown; young or old -- want to scroll through</p> <p>18 hateful content and messages." Do you have any specific</p> <p>19 data or research that goes behind that assertion?</p> <p>20 A. No.</p> <p>21 Q. So what is that assertion based on?</p> <p>22 A. Anecdotally. You know, we work with a lot</p> <p>23 of youth in homeless youth centers through our PowerOn</p> <p>24 program; and we work with a lot of organizations where</p> <p>25 harassment and kind of the ability to moderate their</p>
<p>51</p> <p>1 harassment," do you know how much of that came from</p> <p>2 social media platforms?</p> <p>3 A. I don't.</p> <p>4 Q. Okay. And then the next statistic there,</p> <p>5 "51 percent have been targeted for 'more severe forms of</p> <p>6 online abuse,'" the same question: Do you know how much</p> <p>7 of that came from social media platforms?</p> <p>8 A. I don't.</p> <p>9 Q. And then the same question for the last stat</p> <p>10 there in the paragraph. It says, "Roughly 41 percent of</p> <p>11 straight adults reported enduring any form of online</p> <p>12 harassment." Do you know how much of that came from</p> <p>13 social media platforms?</p> <p>14 A. I don't.</p> <p>15 Q. The research that was done or the statistics</p> <p>16 that we have here that say 68 percent -- going back to</p> <p>17 the first that I asked you about -- that 68 percent of</p> <p>18 LGBTQ adults have encountered online hate and</p> <p>19 harassment, do you know how that compares to other</p> <p>20 marginalized groups who may have encountered online hate</p> <p>21 or harassment?</p> <p>22 A. I don't.</p> <p>23 Q. In Paragraph 12, just scrolling down the page</p> <p>24 a little bit, the very last sentence there refers to</p> <p>25 "rolling back the clock on social progress." What do</p>	<p>53</p> <p>1 sites and get rid of this content is crucial. And we</p> <p>2 know that there have been attacks on sites that make</p> <p>3 them unusable through hate speech or through people</p> <p>4 basically DoS'ing, you know, the websites and people.</p> <p>5 So it is more anecdotal than anything else. I didn't</p> <p>6 rely on specific statistics or a research paper for</p> <p>7 that.</p> <p>8 Q. What if there were a way for a social media</p> <p>9 platform to allow their individual users to moderate</p> <p>10 their own content? What would you think -- what would</p> <p>11 you think of that?</p> <p>12 MR. DISHER: Objection, form.</p> <p>13 A. I mean, any -- any tool that gives more</p> <p>14 privacy to a user is something that we've advocated for</p> <p>15 in the past.</p> <p>16 Q. (BY MR. WALTON) The next sentence there, the</p> <p>17 last clause says that, "many users will flee these</p> <p>18 platforms." And feel free to read the whole sentence if</p> <p>19 you need to refresh your memory. For the sake of time,</p> <p>20 I won't read it out loud to you.</p> <p>21 But after you've had a chance to read</p> <p>22 that, my question is just: What is your support for</p> <p>23 saying that many users will flee these platforms under</p> <p>24 the circumstances you describe there?</p> <p>25 A. Anecdotal. And knowing from our community</p>

<p>54</p> <p>1 what happens when sites are overrun by hateful content, 2 and how people move to other sites. So it's anecdotal. 3 It's not based on research. 4 Q. Okay. And then, would that be the same for 5 the last sentence, "At the very least, many will engage 6 less"? Is that based on any research or data? 7 A. Anecdotal, correct. 8 Q. Let's go to Paragraph 14. 9 We're getting close here, aren't we? 10 A. Yes. 11 Q. Let's look at Paragraph 14. It refers to -- 12 ah, the sentence that begins in the middle of that 13 paragraph, "But if a State like Texas can force a 14 private company to abandon its values and to host all 15 viewpoints, then State lawmakers and their viewpoints 16 and values will come to define the internet." What do 17 you mean by that? 18 A. If we allow States to kind of dictate the 19 content on moderated websites -- and it's mostly for 20 that. You know, the people behind HB 20 have talked 21 about the need for conservative voices to be heard more. 22 Our fear is that when you have a state lawmaker making 23 law based on a viewpoint that they want to definitely 24 push themselves, then, marginalized communities are not 25 going to win.</p>	<p>56</p> <p>1 MR. DISHER: Objection, form. 2 A. It allows hate speech on platforms without 3 giving them a chance to take it down. So it forces 4 platforms to adopt speech that they might not adopt 5 otherwise. 6 Q. (BY MR. WALTON) Okay. When you say 7 "platforms adopting speech," what -- I guess, what does 8 that mean? I'm confused by that. 9 A. Meaning that -- 10 MR. DISHER: Objection, form. 11 A. Meaning that platforms would have to allow 12 speech on their sites that they may not agree with under 13 HB 20. So they would have to adopt speech that they're 14 not -- yeah, so it is not -- it would force content on 15 platforms that they may not want on their platforms for 16 whatever reason. 17 Q. (BY MR. WALTON) And going back to that 18 sentence, then, that I just read, how does this -- I 19 guess I don't understand the last part of that sentence. 20 So explain to me how HB 20 causes the lawmakers and 21 their viewpoints and values to define the internet. 22 MR. DISHER: Objection, form. 23 A. Well, if you are passing a law that doesn't 24 allow discretion for platforms to make their own content 25 decisions and the stated, kind of, impetus behind the</p>
<p>55</p> <p>1 So we all know that laws go on the books. 2 Laws are not always neutrally applied, and they're 3 definitely not always applied neutrally to marginalized 4 communities. So even though you may have a viewpoint- 5 neutral law, as it's supposed to be, the enforcement of 6 that law would reflect the values of the State that 7 imposed that law. 8 Q. So just to be clear, are you -- are you 9 opposed to HB 20 because of what it says in black and 10 white or because of how you are afraid it may be 11 enforced or maybe both? 12 A. I -- 13 MR. DISHER: Objection, form. 14 Go ahead. 15 A. I'm opposed to what it says in black and white 16 about content moderation. 17 Q. (BY MR. WALTON) Okay. A minute ago you were 18 talking about how you were afraid it might be enforced. 19 Do you have any concerns as to how HB 20 might be 20 enforced? 21 A. I have concerns about how any law that tries 22 to dictate viewpoint would be enforced in any 23 circumstance, not just HB 20. 24 Q. I guess, explain to me how HB 20 dictates 25 viewpoint.</p>	<p>57</p> <p>1 law is to allow more conservative voices, then more 2 conservative voices will be on the platform, meaning the 3 content decisions will be affected by this law. 4 Q. (BY MR. WALTON) That next sentence refers to 5 "state-run media." What do you mean by that? 6 A. Again, if lawmakers are now dictating 7 viewpoint and what content that a platform can do, that 8 would be a kind of form of state-run media now, where 9 the State's dictating content for platforms. 10 Q. So what content is the State dictating here? 11 A. It -- 12 MR. DISHER: Objection, form. 13 A. It would be forcing websites and social media 14 sites to host content that they may not necessarily 15 agree with. 16 Q. (BY MR. WALTON) And is this the content of 17 state lawmakers? 18 MR. DISHER: Objection, form. 19 A. Is it the content of state lawmakers? I 20 don't -- I can't speak specifically to state lawmakers, 21 but it is a State telling a media company that they have 22 to host content that they may not host otherwise. So it 23 is a state-imposed prohibition or content moderation 24 policy or lack of content moderation policy that the 25 company might not otherwise get involved in.</p>

<p>58</p> <p>1 Q (BY MR. WALTON) Let me -- let me look at my 2 notes here, and I may have a few other specific 3 questions for you. I certainly appreciate your time 4 here today.</p> <p>5 If you're going to -- if you're going to 6 sign up -- you mentioned earlier that you do some work 7 with Facebook as far as consulting or -- anyway, I don't 8 want to put words in your mouth -- but you're familiar 9 with Facebook, have some interactions with them; you're 10 also under a non-disclosure agreement. So I don't want 11 to ask you anything that might be subject to that. But 12 I think I have this straight -- and I think this is 13 public information, but you -- you tell me how it works. 14 If you want to sign up for a Facebook account, what 15 information do you have to provide in order to just open 16 a Facebook account?</p> <p>17 A. I --</p> <p>18 MR. DISHER: Objection, form.</p> <p>19 A. I got my Facebook kind of like 15 years ago, 20 so I have no idea.</p> <p>21 Q (BY MR. WALTON) Okay.</p> <p>22 A. I'm in -- yeah, I'm in the older generation 23 that got it. So it's been probably about 15, 20 years 24 since I've opened an account on Facebook. So I can't 25 answer that question. I don't -- I don't know.</p>	<p>60</p> <p>1 Q (BY MR. WALTON) Okay. When a social media 2 platform has a content moderation policy in place, how 3 transparent should they be with their users as to what 4 that content moderation policy is?</p> <p>5 MR. DISHER: Objection, form.</p> <p>6 A. I think it's a balance between kind of making 7 sure that the policy is not so public that it can be 8 circumvented and giving enough information for people to 9 have resources and kind of, you know, actionable steps 10 they can take if they're being harassed. So it is kind 11 of a mix.</p> <p>12 I understand kind of the need to keep 13 some things private and inside the company so that 14 they're -- you know, so that the processes are not being 15 circumvented; but there is definitely a need for 16 transparency around kind of how these decisions are 17 made, for sure. That can always be improved.</p> <p>18 Q. (BY MR. WALTON) Social media platforms 19 today, right now, do you think there needs to be more 20 transparency than they're currently giving regarding 21 their content moderation policies?</p> <p>22 A. I think -- (Simultaneous speakers.)</p> <p>23 MR. DISHER: Hold on. Hold on.</p> <p>24 Objection, form.</p>
<p>59</p> <p>1 Q. Okay. That's fine.</p> <p>2 Maybe you can walk me through this: For 3 somebody who is getting harassed or bullied today -- 4 let's say it's on Facebook or some other social media 5 platform. You know, despite the current content 6 moderation policies, they still feel that they're 7 getting harassed or bullied. What -- what -- do they 8 have any legal recourse?</p> <p>9 MR. DISHER: Objection, form.</p> <p>10 A. I -- I can't answer that question. I don't 11 know --</p> <p>12 Q. (BY MR. WALTON) Okay.</p> <p>13 A. -- if they have legal recourse or not.</p> <p>14 Q. I mean, can they sue the social media 15 platform?</p> <p>16 MR. DISHER: Objection, form.</p> <p>17 A. I don't think so, but I'm not a hundred 18 percent sure on that.</p> <p>19 Q. (BY MR. WALTON) Okay. Is that because of 20 Section 230?</p> <p>21 MR. DISHER: Objection, form.</p> <p>22 A. I mean, Section 230 would prevent companies 23 from lawsuits based on their content moderation 24 policies. So, yes, broadly, Section 230 would protect 25 companies from content moderation policies.</p>	<p>61</p> <p>1 A. I think transparency's always good, period. 2 In any of these -- you know, in every -- in every kind 3 of situation and area that we've talked about, I've 4 always advocated for more transparency and more clarity 5 around resources and recourse for actions. So 6 transparency's always something that we advocate for.</p> <p>7 Q. (BY MR. WALTON) Sure. I guess -- so earlier 8 we talked a little bit about content moderation 9 policies, about how, you know, they are what they are 10 today; you think maybe they can improve some in the 11 future.</p> <p>12 How would you -- where on that spectrum 13 would you put the current transparency as far as 14 companies' content moderation policies? Are they as 15 transparent as they need to be; or do you think there's 16 room for improvement there, too?</p> <p>17 MR. DISHER: Objection, form.</p> <p>18 A. I think there's always room for improvement in 19 transparency from social media.</p> <p>20 Q. (BY MR. WALTON) Okay. And just to clarify, 21 I think I asked you early on this morning whether LGBT 22 Tech itself was a social media platform; and I believe 23 you responded that it was not. Did I get that right?</p> <p>24 A. Correct.</p> <p>25 Q. Okay. So if -- let's say if HB 20 went into</p>

<p style="text-align: right;">62</p> <p>1 effect, is there anything that LGBT Tech would be 2 required to do differently to comply with HB 20? 3 MR. DISHER: Objection, form. 4 A. I -- I don't know. I haven't looked at the 5 bill closely enough to look at the definitions and 6 everything. I mean, I know it applies to platforms over 7 50 million; but I haven't really thought about the HB 20 8 impact. As far as I know, there is no impact; but I 9 don't know. I haven't thought about it. 10 Q. (BY MR. WALTON) Okay. But LGBT Tech doesn't 11 have, you know, an action plan to comply with HB 20 12 right now? 13 A. No. 14 MR. DISHER: Objection, form. 15 Q. (BY MR. WALTON) Why is LGBT -- 16 (Simultaneous speakers.) 17 THE WITNESS: -- Todd. 18 MR. WALTON: Sorry. I didn't mean to cut 19 anybody off. 20 THE WITNESS: Sorry, yeah. 21 Q. (BY MR. WALTON) Why is LGBT Tech supporting 22 this lawsuit? 23 A. Because we feel it's important to kind of 24 stop laws that mandate -- or that affect content 25 moderation, wherever they're at, if we can. It really</p>	<p style="text-align: right;">64</p> <p>1 that. 2 Q. (BY MR. WALTON) Okay. Why is LGBT Tech not a 3 plaintiff in this lawsuit? 4 MR. DISHER: Objection, form. 5 A. For us, resources. We -- I'm the only person 6 who does every policy position that I talked to you 7 about. We have the ability to weigh in with a four-page 8 declaration; but we don't have either the economic or 9 the time and resources to take on a case like this as a 10 plaintiff. 11 It's a whole different animal, as you 12 know, to be a plaintiff than a declarant. So we kind of 13 insert ourselves where we can, where we can do something 14 impactful with very little time or money investment; and 15 that's what we thought here was the opportunity to do. 16 MR. WALTON: Todd, do you mind if we take 17 another brief break here? 18 MR. DISHER: Yeah, I mean, do you want to 19 just -- are you determining how much more you have; or 20 what's your thought here? 21 MR. WALTON: Yeah. Yeah, I think I'm 22 pretty close here; and if you give me five or ten 23 minutes, I think we can wrap this up really fast. 24 MR. DISHER: Okay. You want to just do a 25 five-minute break then?</p>
<p style="text-align: right;">63</p> <p>1 is just -- you know, it's an issue that we feel it's not 2 getting enough attention in the LGBT community or it may 3 have, like, kind of the unintended consequences that can 4 happen from laws like this for our community. 5 And if you look at the declaration, it 6 really is kind of highlighting kind of the dangers 7 that LGBT individuals face online that are a greater 8 proportion than other communities and ringing the alarm 9 that, you know, you can't kind of change these laws 10 without some of these things affecting marginalized 11 communities like ours. 12 So that's -- that's why we think it's 13 important to speak out, when we can, on the issue. 14 Q. If social media platforms did not have any 15 content moderation policy and their leadership refused 16 to implement any content moderation policy, would you -- 17 would you support a law that required them to moderate 18 content such as hate speech? 19 MR. DISHER: Objection, form. 20 A. I can't answer that just at a broad level. I 21 don't know what the law would be. I don't know what 22 specifics there would be. It's also kind of a weird 23 kind of hypothetical in a way that no social media 24 company wouldn't have any content moderation. So I just 25 don't think it's realistic, so I can't really answer</p>	<p style="text-align: right;">65</p> <p>1 MR. WALTON: Yeah, that's fine. 2 MR. DISHER: Okay. 3 THE REPORTER: We're going off the record 4 at 9:41 a.m. 5 (Off the record from 9:41 to 9:46 a.m.) 6 THE REPORTER: We're going back on the 7 record at 9:46 a.m. 8 Q. (BY MR. WALTON) Well, Mr. Gutierrez, are you 9 ready to proceed with your deposition? 10 A. I am. 11 Q. Well, I have some good news for you. I have 12 looked over my notes; and I can say that at this point, 13 I have no further questions at this time. 14 And I will pass the witness. 15 THE WITNESS: That is really good news. 16 Thank you. 17 MR. DISHER: Nothing from us at this 18 time. Thank you all. 19 MR. WALTON: All right. Well, thank you 20 for your time, Mr. Gutierrez. We appreciate it. 21 THE WITNESS: Thank you. Bye everyone. 22 THE REPORTER: This concludes the 23 deposition at 9:46 a.m. 24 (Deposition adjourned at 9:46 a.m.) 25 (Signature not requested.)</p>

1 STATE OF TEXAS)

2 REPORTER'S CERTIFICATION

3 I, DEBBIE D. CUNNINGHAM, CSR, hereby certify
4 that the witness was duly sworn and that this transcript
5 is a true record of the testimony given by the witness.

6 I further certify that I am neither counsel
7 for, related to, nor employed by any of the parties or
8 attorneys in the action in which this proceeding was
9 taken. Further, I am not a relative or employee of any
10 attorney of record in this cause, nor am I financially
11 or otherwise interested in the outcome of the action.

12 I further certify that pursuant to FRCP
13 Rule 30(f)(1) that the signature of the deponent was not
14 requested by the deponent or a party before the
15 completion of the deposition.

16 Subscribed and sworn to by me this day,
17 November 14, 2021.

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Debbie D. Cunningham, CSR

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